HON'BLE SRI JUSTICE A. GOPAL REDDY

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WRIT PETITION NO.1371 OF 2000

DATE:17.04.2006

Between:

G. Rajababu

..... PETITIONER

AND

The Revenue Divisional Officer,

Peddapuram, E.Godavari District

& another.

.....RESPONDENTS

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HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.1371 OF 2000

ORDER:

This Writ Petition has been filed questioning the cancellation of the authorization of fair price shop dealership granted in favour of the petitioner consequent to the orders of confiscating 100 per cent of the seized stocks to the State Government in the proceedings initiated against him under Section 6-A of the Essential Commodities Act, by the Joint Collector. The confiscation order was unsuccessfully challenged by the petitioner in W.P.No.22476 of 1999 which was dismissed on 29.10.1999.

Heard the learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The only submission made by the learned counsel for the petitioner is that the impugned order is passed in violation of principles of natural justice as no notice whatsoever was issued to the petitioner before canceling the authorization, which is a must as held by this Court in **B. Venkateswara Rao v . Revenue Divisional Officer, Bhadrachalam, Khammam District** (1996 (3) ALD 885).

Sub-clause (4) of Clause 3 of the A.P. Scheduled Commodities (Regulation of Distribution By Card System) Order, 1973 (for short 'Control Order') reads as under:

> "The [appointing Authority] may, at any time whether at the request of the authorized fair price shop or authorized establishment *suo motu* after making such enquiry as may be deemed necessary, and for the reasons to be recorded in writing, add to, amend, vary, [suspend] or cancel the authorization issued or deemed to be issued to him under this clause."

Sub-clause (4) of Clause 3 is amended through G.O.Ms.No.640, dated 8.8.1989, which reads as under:

> "Where a Fair Price Shop dealer has been convicted by a Court of law in respect of contravention of any order made under Section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955) relating to any of the Commodities mentioned in the Schedule to this order, the appointing authority shall, by order in writing, cancel his authorization."
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> Provided that where such conviction is set aside in any appeal or revision, the appointing authority may, on application in Form-1 made by the person whose authorization has been cancelled, re-issue the authorization to such person."

A reading of the amendment effected to sub-clause (4) of Clause 3 through G.O.Ms.No.640, dated 8.8.1989 mandates that whenever an order is passed for confiscation of the stocks under Section 6-A of the Essential Commodities Act or the dealer is convicted by the Criminal Court, the authorization of that dealer shall be cancelled which does not contemplate any further notice since necessary notice has already been issued in the proceedings initiated under Section 6-A of the Essential Commodities Act for the violation of the Control Order.

In the present case, it is not in dispute that the proceedings initiated against the petitioner under Section 6-A of the Essential Commodities are ended in confiscation of 100 per cent of the seized stocks and the same has been affirmed by this Court in W.P.No.22476 of 1999, dated 29.10.1999. If that be the case, again issuing a notice is nothing but useless formality, more so, it is not a statutory requirement under the Control Order. The decision of this Court referred to supra, on which reliance is placed by the learned counsel for the petitioner, is totally misplaced to the facts of the case on hand. In that case, the authorization was suspended based upon the enquiry made by the inspector without giving an opportunity to the petitioner therein. In view of the same, and as on other ground is urged, I see no merits in this writ

petition.

Accordingly, the Writ Petition is dismissed at the admission stage. No costs.

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A. GOPAL REDDY, J

17th APRIL, 2006.

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